II. Rejections Under 35 U.S.C. § 102 (a) and (e)

The Examiner has rejected claims 1-5 as allegedly anticipated by U.S. Patent No. 6,365,623 ("Perricone '623"). Applicants respectfully traverse this rejection because Perricone '623 fails to teach or suggest all of the claim limitations of claims 1-5.

Perricone relates to a method for reducing and preventing acneiform scars and reducing pore size. The method comprises topically applying to affected skin areas a composition containing lipoic acid or a lipoic acid derivative in a dermatologically acceptable carrier.

In contrast, Applicants claimed invention relates to a method for ameliorating redness or inflammation of mammalian skin by topically applying to red or inflamed mammalian skin, a composition comprising an effective amount of a redness or inflammation reducing agent selected from an alkanolamine, tyrosine or a mixture thereof and a cosmetically acceptable carrier.

There is no teaching or suggestion in Perricone '623 that alkanolamines or tyrosine could be used as redness or inflammation reducing agents in a method for ameliorating redness or inflammation of mammalian skin. The Examiner takes the position that because Perricone '623 teaches that methyl- or ethyl- amino alcohols and/or tyrosine can be added to the Perricone '623 compositions, Perricone '623 anticipates the claimed invention. However, these ingredients are taught by Perricone '623 to be "adjunct ingredients" and are listed among many other ingredients such as alpha hydroxy acids, tocotorienols, fatty acid esters of ascorbic acid, antibiotics and retinoids. Perricone '623 fails to teach or suggest that alkanolamine and/or tyrosine could be used as redness or inflammation reducing agents. Accordingly, Perricone '623 fails to anticipate Applicants' claimed method for ameliorating redness or inflammation of mammalian skin by topically applying to red or inflamed mammalian skin, a composition comprising an effective amount of a redness or inflammation reducing agent

selected from an alkanolamine, tyrosine or a mixture thereof and a cosmetically acceptable carrier.

III. Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 6 and 9-15 as allegedly unpatentable over Perricone '623 in view of U.S. Patent No. 6,162,419 ("Perricone '419"). Applicants respectfully traverse this rejection.

Claim 9 relates to a method for ameliorating redness or inflammation of mammalian skin as recited in claim 1, wherein the composition is applied to sun burned skin, wind burned skin or skin that is red or inflamed due to contact with irritating soaps or cleansers. Claim 10 relates to a method according to claim 1, wherein the composition is applied to skin that is red or inflamed due to rosacea, atopic dermatitis or allergic skin reactions.

Perricone '623 relates to a method for reducing and preventing acneiform scars and reducing pore size. There is no teaching or suggestion in Perricone '623 that the compositions taught therein would be useful in a method for treating sun burned skin, wind burned skin, skin that is red or inflamed due to contact with irritating soaps or cleansers, rosacea, atopic dermatitis or allergic skin reactions as recited by present claims 9 and 10. Perricone '419 does not remedy the deficiencies of Perricone '623. In fact, Perricone '419 relates to methods for stabilizing and solubilizing an ascorbic acid compound. There is nothing in the teaching of Perricone '419 that would suggest to one of ordinary skill in the art that compositions comprising a redness or inflammation reducing agent selected from an alkanolamine, tyrosine or a mixture thereof and a cosmetically acceptable carrier could be used in a method for ameliorating redness or inflammation of mammalian skin by topically applying to red or inflamed mammalian skin, much less, in a method for treating sun burned skin, wind burned skin, skin that is red or inflamed due to contact with irritating soaps or cleansers, rosacea, atopic dermatitis or allergic skin reactions. Clearly, the method of claims 9 and 10 are not obvious in view of the combination of Perricone '623 and Perricone '419.

Claim 6 relates to a method according to claim 1, wherein the composition further comprises a skin irritating ingredient selected from retinoid, benzyol peroxide, alpha-hydroxyacids and derivatives thereof, salicylic acid, surfactants, soaps, natural plant extracts, sunscreen actives, urea, and preservatives. With respect to claims 11-15, these claims relate to a method for ameliorating the irritating effects of a skin irritating composition comprising adding to said composition an effective amount of a compound selected from the group consisting of an alkanolamine; tyrosine; or a mixture thereof wherein said skin irritating compositions comprises at least one compound selected from retinoid, benzyol peroxide, alpha-hydroxyacids and derivatives thereof, salicylic acid, surfactants, soaps, natural plant extracts, sunscreen actives, urea, and preservatives. The Examiner states that "while '623 patent, discussed above, fails to teach the additional ingredients in instant claims 6 and 11, the reference teaches that the composition therein minimizes or eliminates the side effects of conventional acne medications such as benzoyl peroxide."

Applicants respectfully request clarification of the basis of this rejection. It is not clear what teaching in Perricone '419 the Examiner is relying upon. Also, it is not clear why Corless et al. is relied upon. Nevertheless, Applicants have carefully reviewed each of the references relied upon by the Examiner and found that these references, taken alone or in any combination, fail to render the present claims obvious.

There is nothing in any of the references relied upon by the Examiner that would provide one of ordinary skill in the art with the motivation to use an alkanolamine, tyrosine or a mixture thereof as a redness or inflammation reducing agent in a method for ameliorating redness or inflammation of mammalian skin. Further, there is nothing in the teachings of any of the references relied upon by the Examiner that would provide one of ordinary skill in the art with the motivation that ameliorating the irritating effects of a skin irritating composition comprising adding to said composition an effective amount of a compound selected from the group consisting of an alkanolamine; tyrosine; or a mixture thereof.

Although Perricone '623 states that "adjunct ingredients enhance the efficacy of the treatment, and minimize or eliminate skin irritation to perilesional areas," there is nothing in

the teachings of Perricone '623 that would indicate to one of ordinary skill in the art that an alkanolamine or tyrosine could be used in a method for ameliorating redness or inflammation or mammalian skin much less in a method for ameliorating the irritating effects of a skin irritating composition. First, the list of adjunct materials taught by Perricone includes alpha hydroxy acids, retinoids, and benzoyl peroxide which are known to cause skin irritation. In fact, Corless et al. (relied upon by the Examiner) specifically teaches the irritating effects of benzoyl peroxide. Clearly, not all of the adjunct ingredients taught by Perricone would be expected to ameliorate the irritating effects of a skin irritating composition. Second, there is nothing in the teachings of Perricone '623 that would provide one of ordinary skill in the art with the motivation to use an alkanolamine or tyrosine as a redness or inflammation agent or as an agent which would ameliorate the irritating effects of a skin irritating composition. Applicants therefore respectfully submit that Perricone '623, taken alone or in any combination with Perricone '419 or Corless et al., fails to render Applicants claimed method obvious and the rejection should be withdrawn.

IV. Conclusion

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. An early and favorable response to this Amendment is earnestly solicited. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/JBP-525/EMH. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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